**5164 AMS DARN S1748.2 - NOT FOR FLOOR USE**

**SB 5164** - S AMD **253**

By Senator Darneille

**ADOPTED 03/01/2021**

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  (1) In any criminal case wherein an offender has been sentenced as a persistent offender, the offender must have a resentencing hearing if a current or past conviction for robbery in the second degree was used as a basis for the finding that the offender was a persistent offender. The prosecuting attorney for the county in which any offender was sentenced as a persistent offender shall review each sentencing document. If a current or past conviction for robbery in the second degree was used as a basis for a finding that an offender was a persistent offender, the prosecuting attorney shall, or the offender may, make a motion for relief from sentence to the original sentencing court.

(2) The sentencing court shall grant the motion if it finds that a current or past conviction for robbery in the second degree was used as a basis for a finding that the offender was a persistent offender and shall immediately set an expedited date for resentencing. At resentencing, the court shall sentence the offender as if robbery in the second degree was not a most serious offense at the time the original sentence was imposed.

(3) Notwithstanding the provisions of RCW 9.94A.345, for purposes of resentencing under this section or sentencing any person as a persistent offender after the effective date of this section, robbery in the second degree shall not be considered a most serious offense regardless of whether the offense was committed before, on, or after the effective date of chapter 187, Laws of 2019.

**Sec.**  RCW 9.94A.345 and 2000 c 26 s 2 are each amended to read as follows:

((~~Any~~)) Except as otherwise provided in this chapter, any sentence imposed under this chapter shall be determined in accordance with the law in effect when the current offense was committed."

**SB 5164** - S AMD **253**

By Senator Darneille

**ADOPTED 03/01/2021**

On page 1, line 2 of the title, after "conviction;" strike the remainder of the title and insert "amending RCW 9.94A.345; and creating a new section."

EFFECT: Clarifies that the offense of robbery in the 2nd degree committed prior to the adoption of SB 5288 (2019) may not be considered a most serious offense when sentencing or resentencing a person as a persistent offender notwithstanding statutory provisions requiring application of the law in effect at the time the person committed the crime.